

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ELBA POPPITI and MICHAEL DESTIO, )  
individually and on behalf )  
of all others similarly situated, )

Plaintiffs, )

vs. )

Case No.: 4:19-cv-02028-SNLJ

UNITED INDUSTRIES CORPORATION )  
and SPECTRUM BRANDS, INC. )

Defendants. )

**DEFENDANTS' MOTION FOR LEAVE TO FILE BRIEF IN EXCESS OF 15  
PAGES IN SUPPORT OF MOTION TO DISMISS AMENDED COMPLAINT**

COME NOW Defendants United Industries Corporation (“United”) and Spectrum Brands, Inc. (“Spectrum”) (collectively “Defendants”) and hereby respectfully move the Court for leave to file their Memorandum in Support of their Motion to Dismiss Plaintiffs’ First Amended Complaint Under F.R.C.P. 12 (“Motion to Dismiss”) in excess of the page limitation set forth in this Court’s local requirements. As grounds for this Motion, Defendants state as follows:

1. Plaintiffs Elba Poppiti and Michael Destio, each on behalf of herself or himself and a putative class, filed their First Amended Class Action Complaint (Dkt #15) against Defendants alleging that two types of citronella candles distributed by Defendant United are ineffective to repel mosquitos, contrary to package labeling, and constitute false labeling.

2. In their forthcoming Motion to Dismiss to be filed on or before November 7, 2019, Defendants will set forth multiple separate grounds supporting dismissal of Plaintiffs' Complaint with prejudice, including but not limited to, pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(2), and/or 12(b)(6).

3. Defendants' Motion to Dismiss which, if granted, could be dispositive of the case, raises complex issues regarding, among other things, constitutional standing, statutory construction, and pleading sufficiency.

4. To set forth fully each ground for dismissal, Defendants respectfully request that they be allowed to submit a memorandum in support of their Motion to Dismiss of up to twenty-three (23) pages.

5. This motion is made in the interests of justice and not for the purpose of burdening the Court or counsel.

WHEREFORE, Defendants respectfully request that the Court grant this Motion and enter an Order allowing Defendants leave to file a memorandum of up to twenty-three (23) pages in support of their forthcoming Motion to Dismiss Plaintiffs' First Amended Class Action Complaint under F.R.C.P. 12.

Respectfully submitted,

Dated: November 5, 2019

GREENSFELDER, HEMKER & GALE, P.C.

By /s/ Mary Ann L. Wymore  
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*Attorneys for Defendants United Industries  
Corporation and Spectrum Brands, Inc.  
(appearing specially to contest jurisdiction)*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 5<sup>th</sup> day of November, 2019, the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Mary Ann L. Wymore